

**U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

KATHLEEN GREENE
Plaintiff,

Case No.: 12-1861

v.

COMPLAINT

U.S. DEPARTMENT OF VETERANS AFFAIRS
810 Vermont Avenue NW
Washington, DC 20420

and

ERIC K. SHINSEKI, in his official capacity as
Secretary of U.S. Department of Veterans Affairs,
Defendants.

COMPLAINT

The Plaintiff brings this action for injunctive, declaratory and monetary relief pursuant to the Privacy Act of 1974, 5 U.S.C. § 552a et seq., the Freedom of Information Act, 5 U.S.C. § 552(a) et seq., and the Federal Declaratory Judgment Act, 28 U.S.C. § 2201.

Jurisdiction

1. This Court has jurisdiction over this action pursuant to 5 U.S.C. §§ 552a(g)(1), 552(a)(4)(B), and 28 U.S.C. § 1331.

Venue

2. Venue is appropriate in the District under 5 U.S.C. §§ 552a(g)(5), 552(a)(4)(B), and 28 U.S.C. § 1391.

Parties

3. Plaintiff Kathleen Greene is a citizen of the United States, the State of Washington and resides in the Western District of Washington.
4. Defendant U.S. Department of Veterans Affairs ("DVA") is an agency within the meaning of 5 U.S.C. § 552a(a)(1), and is in possession and/or control of records pertaining to the records requested. Defendant Eric K. Shinseki is named in his official capacity as Secretary of the agency. DVA maintains a system of records containing requested information and has possession and control of the records at issue in this Complaint.

Facts

5. Plaintiff is a former employee of DVA who has pending discrimination complaints against DVA at the Equal Employment Opportunity Commission.
6. Plaintiff submitted FOIA and Privacy Act request to the DVA Central Office and Seattle Regional Office on January 29, 2012. Plaintiff requested the following:

A. All records pertaining to light duty and/or special project assignments (including training) at the Seattle VA Regional Office for all locations and employees under its jurisdiction from May 1, 2010 to October 31, 2011, accounting for each day, the amount of time, and the number of employees assigned. Such information would be stored in a program called "ASPEN," an electronic time keeping system that accounts for work and special projects performed by each employee, and can be easily obtained.

B. All records that mention or pertain to me.

COUNT 1 – Not Providing Metadata

7. Plaintiff requested that all e-mail communication, documents and records be provided in native searchable format including metadata, per *Armstrong v. Bush*. Plaintiff noted that no deviation from *Armstrong* would be accepted.
8. On March 15, 2012 Plaintiff transmitted a written administrative appeal to DVA. Plaintiff administratively appealed refusal of DVA to provide metadata. Plaintiff also appealed the

1 denial by DVA of Plaintiff's request for information as mentioned above in number 6(A)
2 in a letter dated on February 22, 2012. Plaintiff administratively appealed to DVA on
3 March 15, 2012 that the DVA does maintain a system of records that would allow for the
4 requested records to be provided.

5 **Count: Not providing records under FOIA/Privacy Act to Plaintiff at No Charge**

- 6 9. As mentioned above in item #8, Plaintiff on March 15, 2012 administratively appealed
7 the decision to charge for records that Plaintiff was entitled to receive at no charge under
8 the law. DVA has provided similarly requested information to other employees at no
9 charge.

10 **Count: Violation of the FOIA: Failure to Comply With Statutory Deadlines**

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12 10. Paragraphs 1-9 above are hereby incorporated by reference as if set forth fully herein.
13 11. DVA's response to Plaintiff's FOIA/Privacy Request violated the statutory deadlines
14 imposed by the FOIA, including the deadlines set forth in 5 U.S.C. § 552(a)(6)(A) (2009).
15 12. Plaintiff has exhausted the applicable administrative remedies with respect to Plaintiff's
16 FOIA Request. To date no response has been received.
17 13. DVA has wrongly withheld responsive agency records from Plaintiff.
18 14. Plaintiff is entitled to injunctive relief compelling the release and disclosure of the
19 requested agency records.
20

21 **REQUESTED RELIEF**

22 WHEREFORE, Plaintiff prays that this Court:

- 23 A. Order Defendants to make a complete determination regarding FOIA/Privacy Act Request
24 of Plaintiff within five working days of the date of the Court's Order in this matter;
25

- 1 B. Order Defendants to produce all responsive agency records within ten business days of the
2 Court's Order in this matter;
- 3 C. Award plaintiff its costs and reasonable attorneys' fees incurred in this action pursuant to 5
4 U.S.C. § 552(a)(4)(E) (2009); and
- 5 D. Grant such other relief as the Court may deem just and proper.
- 6
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9 Dated this 22nd day of October, 2012

10 /s/Robert Joseph
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13 RENTON, WA 98057
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